S. HRG. 99-419

AMEND THE PANAMA CANAL ACT OF 1979 AND PANAMA CANAL AUTHORIZATION ACT, 1986

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 664

TO AMEND THE PANAMA CANAL ACT OF 1979 WITH RESPECT TO THE PAYMENT OF INTEREST ON THE INVESTMENT OF THE UNITED STATES

H.R. 1784

TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1986 FOR THE OPERATION AND MAINTENANCE OF THE PANAMA CANAL, AND FOR OTHER PURPOSES

SEPTEMBER 19, 1985

Printed for the use of the Committee on Armed Services

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THURSDAY, SEPTEMBER 19, 1985

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met in open session pursuant to notice, at 2 p.m., in room SR-222, Russell Senate Office Building, Senator Barry Goldwater (chairman) presiding.

Present: Senators Goldwater, Thurmond, Quayle, Denton, Gramm, Levin, Bingaman, and Glenn.

Staff present: James F. McGovern, staff director and chief counsel; Arnold L. Punaro, staff director for the minority; Alan R. Yuspeh, general counsel; Jeffrey H. Smith, minority counsel; Christine C. Dauth, chief clerk; Ronald P. Kelly, professional staff member, and Marie Chaillet, staff assistant.

Also present: Gerald J. Smith, assistant to Senator Goldwater; Romie L. Brownlee, assistant to Senator Warner; Henry D. Sokolski, assistant to Senator Quayle; Allan W. Cameron, assistant to Senator Denton; Jeffrey B. Subko, assistant to Senator Exon; Edward McGaffigan, Jr., assistant to Senator Bingaman; Charles C. Smith, assistant to Senator Dixon; Phillip P. Upschulte, assistant to Senator Glenn; John Keeley, assistant to Senator Levin; and Will Walsh, assistant to Senator Gramm.

OPENING STATEMENT BY SENATOR BARRY GOLDWATER, CHAIRMAN

Chairman GOLDWATER. The meeting will come to order.

I want to apologize for the lack of members, but we are tied up in legislation on the floor.

We meet this afternoon to consider two pieces of legislation that have been passed by the House related to the Panama Canal.

[The bills, H.R. 664 and H.R. 1784 follow:]

99TH CONGRESS
1ST SESSION

H. R. 664

IN THE SENATE OF THE UNITED STATES

MAY 7 (legislative day, APRIL 15), 1985
Received; read twice and referred to the Committee on Armed Services

AN ACT

To amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1302(b) of the Panama Canal Act of 1979 (22 U.S.C. 3712(b)) is amended by inserting immediately before the period at the end thereof the following: "; except that the part of the tolls and other receipts that covers interest on the investment of the United States in the Panama Canal pursuant to section 1602 and 1603 of this Act shall be deposited into the Treasury as miscellaneous receipts".

(b) Section 1603(b)(2)(A) of the Panama Canal Act of 1979 (22 U.S.C. 3793(b)(2)(A)) is amended by striking out "Treasury" and inserting in lieu thereof "Panama Canal Commission Fund".

SEC. 2. The amendments made by this Act shall apply only to tolls and other receipts of the Commission deposited in the Treasury on or after the date of the enactment of this Act.

Passed the House of Representatives May 6, 1985.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

99TH CONGRESS
1ST SESSION

H. R. 1784

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, APRIL 15), 1985
Received; read twice and referred to the Committee on Armed Services

AN ACT

To authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1986".

SEC. 2. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this Act referred to as the "Commission") for the fiscal year beginning October 1, 1985, not more than

$436,784,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (Public Law 96–70; 22 U.S.C. 3601 et seq.), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1986, the number and price of which may not exceed the amount provided in appropriation Acts; except that large heavy duty passenger sedans used to transport employees of the Commission across the Isthmus of Panama may be purchased for the fiscal year 1986 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $33,000 may be made available for such expenses, of which (A) not more than $8,000 may be made available for such expenses of the Supervisory Board of the Commission, and (B) not more than $25,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 3. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 2 of this Act, not more than $26,500,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Commission.

SEC. 4. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 2 of this Act, there are authorized to be appropriated to the Commission for the fiscal year 1986 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of article XIII of the Panama Canal Treaty

of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5. BENEFITS FOR CERTAIN EMPLOYEES.

(a) EDUCATIONAL TRAVEL BENEFITS.—Section 1207(b)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3647(b)(2)) is amended by striking out "one round trip" and inserting in lieu thereof "two round trips".

(b) TRAVEL AND TRANSPORTATION EXPENSES.—

(1) EXPENSES ALLOWABLE.—Subchapter I of chapter 2 of title I of the Panama Canal Act of 1979 (22 U.S.C. 3641 et seq.) is amended by adding at the end thereof the following:

"TRAVEL AND TRANSPORTATION EXPENSES

"SEC. 1210. The Commission may pay the expenses of vacation leave travel for an employee of the Commission to whom section 1206 of this Act applies and for transportation of employee's family from the employee's post of duty in Panama to the place of the employee's actual residence at the time of appointment to the post of duty. The authorization of expenses under this section shall be in accordance with subchapter II of chapter 57 of title 5, United States Code, and the regulations issued under that subchapter, except that the Commission may prescribe required periods of service notwithstanding section 5722 of title 5, United States

Code, and the regulations issued under subchapter II of chapter 57 of such title.".

(2) CLERICAL AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1209 the following:

"1210. Travel and transportation expenses.".

(c) USE OF APPROPRIATIONS FOR HEALTH CARE AND EDUCATIONAL SERVICES.—Section 1321(e) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)) is amended to read as follows:

"(e) The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available to defray the cost of—

"(1) health care services to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to employees of the Commission who are citizens of the United States and persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.".

SEC. 6. COMPENSATION FOR NON-GOVERNMENT BOARD MEMBERS.

Section 1102(b) of the Panama Canal Act of 1979 (22 U.S.C. 3612(b)) is amended in the last sentence by inserting immediately before the period at the end thereof the following: ", except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section".

SEC. 7. NOTIFICATION OF TRANSFER OF PROPERTY.

Section 1504(b) of the Panama Canal Act of 1979 (22 U.S.C. 3784(b)) is amended in the second sentence by striking out "At least 180 days before" and inserting in lieu thereof "Before".

SEC. 8. It is the sense of Congress that the fiscal year 1986 expenditures of the Panama Canal Commission be frozen at the levels approved for fiscal year 1985 ($429,846,000) and that all possible steps be taken to assure

that any savings resulting from this action accrue to the general funds of the Treasury as miscellaneous receipts.

Passed the House of Representatives May 14, 1985.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

By W. RAYMOND COLLEY,
Deputy Clerk.

Chairman GOLDWATER. We have with us today three executives of the Panama Canal Commission as witnesses. William Gianelli is the Chairman of the Panama Canal Commission. Mr. Gianelli previously served in the Reagan administration as Assistant Secretary of the Army for Civil Works, and by special act of Congress has continued to serve as Chairman of the Commission since leaving the Department of the Army. Mr. Gianelli has served with distinction as the Chairman for the last 5 years.

Lt. Gen. Philip McAuliffe is formerly the commander-in-chief of the Southern Command. When General McAuliffe retired from the Army, he became the Administrator of the Panama Canal in 1979. He has a distinguished record of public service, both as a military officer and as a civilian.

The third witness seated at the table is Michael Rhode, Jr., Executive Secretary of the Panama Canal Commission. Many of us in the Senate know Mike well from his days as a congressional liaison official when he was an Army officer. Mike has served in his present position since 1980 and I can say candidly that he has conscientiously, thoughtfully, and energetically looked after the concerns of the canal here in Washington.

One of the bills that we are considering today is H.R. 1784, the Panama Canal Authorization Act for fiscal year 1986. This is the basic authorizing legislation for the canal's operation for the coming fiscal year.

The other bill before us today is H.R. 664, a bill dealing with certain changes in the treatment of interest paid by the Commission to the U.S. Government on the investment in the canal.

Both of these measures have been passed by the House, and I am not aware of any controversy about either measure. Accordingly, it would be my intention to try to vote on both of these bills at the end of today's hearing.

I should also note for the record that the House passed a bill, H.R. 729, the Panama Canal Amendments Act of 1985, which deals primarily with the settlement of claims for accidents occurring outside the canal locks. Though this bill is not the subject of today's hearing, I would anticipate that the committee would give appropriate attention to H.R. 729 at a later date.

The prepared statement of Senator Dixon will be inserted in the hearing record at this point.

[The prepared statement of Senator Dixon follows:]

PREPARED STATEMENT BY SENATOR DIXON

Mr. Chairman, I was not a member of the Senate when the Panama Canal Treaty was passed. The legislation before this committee today is to consider the authorization act for the Panama Canal Commission. I look forward to hearing from todays witnesses—Dennis P. McAuliffe, Administrator of the Panama Canal Commission; and William R. Gianelli, Chairman of the Board of the Panama Canal Commission—on how the Commission is functioning.

I also am interested in hearing how the relationship between our Government and Panama is proceeding.

Thank you, Mr. Chairman.

Chairman GOLDWATER. Mr. Gianelli, you may say anything you care to about what we are doing.

STATEMENT OF WILLIAM R. GIANELLI, CHAIRMAN OF THE BOARD, PANAMA CANAL COMMISSION

Mr. GIANELLI. Thank you very much, Mr. Chairman and Senator Nunn.

I am William R. Gianelli, Chairman of the Board of the Panama Canal Commission. I am pleased to appear before you today to testify on H.R. 1784 which is the authorization for the fiscal year 1986 budget program of the Panama Canal Commission, and also on H.R. 664, commonly referred to as the interest bill.

Participating with me is Dennis P. McAuliffe on my left, Administrator of the canal, and on my right Michael Rhode, Jr., Secretary of the Commission.

With your permission, I would like to summarize my remarks on both of these bills and submit separate statements for the record.

Chairman GOLDWATER. That will be done.

Mr. GIANELLI. At the outset I would like to emphasize the importance of this legislation to the Panama Canal Commission.

I also want to affirm the administration has approved a budget submission of the Commission.

First, briefly with respect to the 5-year financial result since the Commission has been in operation. At the close of fiscal year 1984, the Commission completed its fifth year of operation, a period representing one-fourth of its statutory life.

During this period the Commission has been faced with many difficult challenges which I believe have been dealt with and the results I believe demonstrate the personal and professional responsibility and commitment of the entire Commission work force to manage and operate the Panama Canal in the most efficient and effective way possible.

In the financial area it is worthy to mention the Commission was successful in meeting its mandate to operate at no cost to the U.S. taxpayer. During that period we incurred some $1.982 billion of expenses over the period while generating some $1.988 billion in terms of revenue.

Rate stability was also maintained over this period. We only had one 9.8-percent increase in toll rates which is substantially less than the inflation for the period.

Overall, I certainly feel very good about the operation of the Commission in the last 5 years.

Moving on to board activity, one of the significant problems facing the board was elimination of the disparate wage system established after the treaty implementation which provided lower wages for certain employees hired in Panama after October 1, 1979.

Steps one and two of the plan to disestablish that system have been implemented and step three will occur on October 1 of this year. This final step will result in providing a uniform wage system that will provide consistent salary treatment for all employees of the Commission.

Another item which has been of considerable concern to both employees and management alike of the Commission was the loss this part October, that is about a year ago, of military purchase and postal privileges by the U.S. citizen employees of the Commission.

In consideration of the serious monetary impact this act would have on an important part of the work force, the board approved an equity adjustment package in lieu of the cost of living allowance which was authorized by Public Law 96-70.

Although there have been indications of dissatisfaction with certain aspects of the equity adjustment package, I believe the general consensus is that it has served a useful purpose in enhancing employee morale and retention of a skilled work force which is extremely important.

With respect to payments to Panama as prescribed by the treaty, earlier I mentioned that the Commission had revenues and expenses, each approaching $2 billion for the 5-year period, 1980 through 1984. This has resulted in approximately $6 million of contingency payments to the Republic of Panama since fiscal year 1980.

When combined with the other required payments to Panama under the treaty for the 5-year period, the total amount paid to Panama exceeds $375 million.

Moving on the specific authorization provisions, aside from providing funding authorization which Mr. McAuliffe will address when I am through, H.R. 1784 will provide necessary authority to allow the Commission to implement certain benefits contained in the equity adjustment package to certain U.S. employees. These are enumerated in my statement for the record.

These provisions are important for the retention of a skilled U.S. work force which I again believe is necessary for the efficient operation of the canal. This will be at no cost to the U.S. taxpayer since funding will be from Commission revenue.

Lastly, Mr. Chairman, section 8, of H.R. 1784, a sense-of-the-Congress resolution, contemplates a freeze on the levels of spending to that of fiscal year 1985 and states that any surplus accrue to the Treasury of the United States.

As I am sure this committee is aware, this cannot happen without altering the treaty itself. The treaty dictates that any profit, up to $10 million annually—cumulative—will be paid to Panama. However, in recent weeks the Commission has been reassessing the fiscal year 1986 traffic picture in light of the experience to date and the outlook for potential growth in the future.

Our review indicates traffic levels in fiscal year 1986 will be below our previous forecast and as a result total revenue will fall short of the authorization level requested. Therefore, section 8 becomes academic. The Commission still anticipates operating on a break-even basis in 1986.

Moving on quickly to H.R. 664, let me say that the Panama Canal Act of 1979 established the Panama Canal Commission fund with the requirement that all canal receipts be deposited thereto and appropriations to the Agency be limited to estimated deposits plus any unexpended balance in the fund.

A fundamental deficiency in the new arrangement was overlooked, however, in that under the special fund concept, the Commission is required to have a balance on deposit before funds appropriated by the Congress can be obligated. This special funding arrangement is workable only if there is an adequate funding authority balance available at the start of each fiscal year, specifically to meet the first 2 months' requirements of expenditures.

Reduced to its simplest terms, the Commission must ensure it retains sufficient funding authority to allow it to operate effectively within the unique financial arrangement under which, by law, it must function.

There is now a sufficient amount in the special fund to allow us to continue operation. The authority is used only for the annual startup funding and when the treaty terminates at the end of this century in 1999 it will become part of the general fund.

Mr. Chairman, the administration prefers that a permanent appropriation be granted by the Congress rather than a provision for direct deposits as required by H.R. 664. Both approaches, however, meet the President's general central objective to place the interest in the general fund of the Treasury.

Mr. Chairman, that concludes my remarks on both H.R. 1784 and H.R. 664.

I recommend, if it meets with your approval, that Mr. McAuliffe present his summarized statement on both bills and then we will both be available to respond to any questions the committee might have, and we have backup staff if necessary.

[The statements of Mr. Gianelli follow:]

PREPARED STATEMENT OF WILLIAM R. GIANELLI, CHAIRMAN, BOARD OF DIRECTORS, PANAMA CANAL COMMISSION

INTRODUCTION

Mr. Chairman, members of the committee, I am William R. Gianelli, chairman of the board of the Panama Canal Commission. I am pleased to appear before you today to request authorization for the fiscal year 1986 budget programs of the Panama Canal Commission, the agency responsible for the operation of the Panama Canal. Participating with me is Dennis P. McAuliffe, the Administrator of the Commission, and Michael Rhode, Jr., the Secretary of the Commission.

Mr. Chairman, at the outset I would like to emphasize the importance of this legislation to the Panama Canal Commission. I also want to affirm that the administration has approved the budget submission of the Commission. H.R. 1784 contains several important provisions which, if enacted, will contribute substantially to the continued effective operation of the Panama Canal.

SIGNIFICANT MILESTONE

This year, a significant milestone was reached at the canal. In August, we observed the seventy-first anniversary of the opening of the waterway—an event that

is a reminder of American ideals, ingenuity and achievement. The completion of a water passage to unite two great oceans in 1914 was a foresighted accomplishment that has provided immeasureable economic benefits to world commerce. Since its inception, the canal's contribution to world trade has grown rather than diminished, and it should remain an important transportation artery for many years to come. It is noteworthy that, at seventy-one years of age, the waterway is in excellent condition in terms of both its physical and capacity for providing safe and efficient service to the merchant ships of the world.

FIVE-YEAR FINANCIAL RESULTS

With the close of fiscal year 1984, the Commission completed its fifth year of operation—a period representing one-fourth of its statutory life. During this period, the Commission has been faced with many difficult challenges. Included among these challenges were:

(1) Entering into a treaty environment far different from the past.

(2) Accommodation to an organizational and financial structure vastly different from that of its predecessor agency.

(3) The realization of one important alternative to the canal (the opening of the trans-Panama oil pipeline).

(4) A severe worldwide recession from which the maritime industry has not yet fully recovered; and

(5) A continuation of inflation, although at a lower rate than at the beginning of the period.

These challenges have been dealt with and the results, I believe, demonstrate the personal and professional responsibility and commitment of the entire Commission work force to manage and operate the Panama Canal in the most efficient and effective way possible.

In the financial area, it is worthy to mention that the Commission was successful in meeting its mandate to operate at no cost to the U.S. taxpayer, incurring $1.982 billion of expenses over the period, while generating $1.988 billion in revenues. In addition, receipts were sufficient to sustain a sufficiently high level of capital investment to enhance canal safety and efficiency. Rate stability was also maintained over this period with the one 9.8% increase in toll rates which helped offset the revenue loss from the opening of the pipeline, being substantially less than inflation for the period.

Progress has also been made by the Commission in other areas. The current composition of the Commission work force reflects a significant increase in the proportion of Panamanian employees as well as an increase in the number of those having highly skilled positions. Contributing to this objective of increasing Panamanian participation throughout the organization are the Commission's extensive training programs. These programs have met, and are expected to continue to meet, the Commission's future personnel requirements both in the technical and administrative areas.

BOARD ACTIVITIES

One of the significant problems facing the board was the elimination of the disparate wage system established after treaty implementation. The wage system provided lower wages for certain employees hired in Panama after October 1, 1979. Steps one and two of the plan to disestablish that system have been implemented and step three will occur on October 1, this year. This final step will result in providing a uniform wage system that will provide consistent salary treatment for all employees of the Commission.

Another item which has been of considerable concern to both employees and management alike of the Commission was the loss this past October of military purchase and postal privileges by U.S. citizen employees of the Commission. In consideration of the serious monetary impact this action would have on an important part of the work force, the board approved an equity adjustment package in lieu of a cost-of-living allowance which was authorized, but not required, by Public Law 96-70. The major specific elements of the equity adjustment package are: Provision, at no charge, of quarters and electricity and a special additive for residents in remote areas and for individuals living in non-Commission managed housing.

In addition, use of a special mail service was authorized by the Department of State. The equity adjustment package, combined with use of the mail service, is intended to generally offset the monetary losses incurred by affected employees. Although there have been indications of dissatisfaction with certain aspects of the equity adjustment package, I believe the general concensus is that it has served a

useful purpose in enhancing employee morale and the retention of a skilled work force.

PAYMENTS TO PANAMA

Earlier I mentioned that the Commission had revenues and expenses each approaching $2 billion for the five-year period 1980–84. This has resulted in approximately $6 million of contingency payments to the Republic of Panama since fiscal year 1980. However, the Commission has made other payments which in the aggregate amount to a significant economic benefit to the Republic of Panama. When combined with the annual fixed annuity payment, the reimbursement for public services and the net tonnage payment assessed ships transiting the canal, the total cumulative payments to the Republic of Panama for the five-year period exceed $375 million.

Of these payments, the single largest item is the tonnage payment based on Panama Canal net tons transiting the canal. This payment for the first five years was based on 30 cents per ton transiting and amounted to about $50 million annually. Effective October 1, 1984, the rate was increased for the first time to 31 cents based on a requirement of the treaty to adjust the rate for inflation after the fifth year of the treaty. Subsequent adjustments are to be made every two years, the next to occur in fiscal year 1987.

AUTHORIZATION PROVISIONS

H.R. 1784 would authorize appropriations to the Commission for fiscal year 1986 of $436.8 million, of which $410.3 million is for operating expenses and $26.5 million is for the capital program. While this authorization is $10 million less than requested by the administration, the reduction relates to the method for depositing interests into the U.S. Treasury which will be further addressed by my statement of H.R. 664. Therefore, the reduction will have no impact on the Commission's operating and capital programs for 1986. Aside from providing funding authorization, the bill would:

(A) Authorize the Commission as part of its equity package to grant its U.S. Citizen employees certain additional Commission paid travel benefits to and from the United States and Panama, to offset certain employees treaty mandated loss of access to military commissary, post exchange, and postal facilities. These travel benefits are unique, and exceed those available to any other Federal employees assigned to foreign locations. The double round trip each year for college age dependents would apply to approximately 150 students per year. This benefit is extended only to those U.S. employees who lost privileges by virtue of the treaty requirement and does not apply to new employees.

(B) Authorize the Commission to defray the cost of certain health care and educational services provided by the private sector in Panama as an alternative to the exclusive use of U.S. military facilities for those services.

(C) Authorize the payment of compensation to non-govenment members of the Panama Canal Commission board of directors for time spent in the discharge of their responsibilities.

(D) Eliminate the existing requirement that 180 days' advance notice be given to Congress before transfers of property to Panama can be effected.

Mr. McAuliffe will address the Commission's funding and some of these provisions in more detail, but I want to comment on several of these items from my perspective.

Concerning the provision that would authorize compensation for board members, I support this provision as being in full accord with the way most Federal commissions and boards operate and as placing our non-Government board members on the same footing as their counterparts who hold other Government offices. It would extend compensation only to members of the Commission board who hold no office with either the Government of the United States or the Republic of Panama for which they receive compensation for each day during which they are traveling to or from or attending meetings of the board.

Another item I would like to comment on is the provision that eliminates the existing requirement contained in the Panama Canal Act of 1979 that 180 days' advance notice be given to Congress before transfers to Panama can be effected. This change is strongly supported by the Commission since the requirement has placed a cost burden on us in the orderly transfer to the Republic of Panama of housing units excess to Commission needs. During the mandatory 180-day period between notification and transfer, some housing units have been vandalized. The agency is then forced to incur additional maintenance costs for these facilities, even though

they are no longer needed by the Commission. Elimination of the 180-day waiting period will serve to remedy this undesirable situation.

Lastly, Mr. Chairman, section 8 of H.R. 1784, a sense-of-the Congress resolution, contemplates a freeze on the levels of spending to that of fiscal year 1985 and states that any surpluses accrue to the Treasury of the United States. As I am sure you are aware, this cannot happen unless Panama agrees. The treaty dictates that any profit, up to $10 million annually (cumulative), will be paid to Panama.

Accordingly, this proposal could only be accompliished by renegotiating the payment provisions of the 1977 treaty. We oppose this provision because it would open up for debate fundamental matters concerning the treaty. However, in recent weeks the Commission has been reassessing the fiscal year 1986 traffic picture in light of the experience to date and the outlook for potential growth in the future. Our review indicates traffic levels in fiscal year 1986 will be below our previous forecast and, as a result, total revenue will fall short of the authorization level requested. Therefore, section 8 of H.R. 1784 becomes academic. The Commission still anticipates operating on a break-even basis in 1986 and all appropriations received will be covered by receipts deposited in the Panama Canal Commission fund.

CONCLUSION

In closing Mr. Chairman and members, the operating and capital budget programs for 1986 will allow us to continue operating the canal in a safe, efficient manner and to make essential investments in canal plant and facilities to ensure that the canal continues to serve world commerce.

That concludes my prepared remarks, I recommend that Mr. McAuliffe present his statement and we both will then be available for questions.

PREPARED STATEMENT OF WILLIAM R. GIANELLI, CHAIRMAN, BOARD OF DIRECTORS, PANAMA CANAL COMMISSION, ON H.R. 664

Mr. Chairman, members of the committee, I am William R. Gianelli, chairman of the board of the Panama Canal Commission. I am pleased to appear before you today to comment on H.R. 664, a bill requiring that all future collections of interest on the original investment in the Panama Canal be deposited into the general fund of the Treasury rather than the Panama Canal Commission fund.

The Commission is a self-sustaining businesslike entity which provides an important service to world shipping. While it is constituted as an appropriated-fund agency, the source of all its funds is canal revenues and not the U.S. taxpayer. An important feature of canal operations that distinguishes it from other commerical operations is that by both treaty and domestic U.S. laws, the Panama Canal Commission is precluded from building up a working-capital balance by means of operational profits.

The Panama Canal Act of 1979 established the Panama Canal Commission fund with the requirement that all canal receipts be deposited thereto and that appropriations to the agency be limited to estimated deposits plus any unexpended balance in the fund. This financial structure was not intended by the Congress to hamper canal operations or to establish burdensome financial constraints, but rather to ensure that canal revenues cover the financial requirements of the waterway. A fundamental deficiency in the new arrangement was overlooked, however, in that under the special-fund concept, the Commission is required to have a balance on deposit before funds appropriated by the Congress can be obligated. This special funding arrangement, possibly unique in the U.S. Government and certainly unique to a business enterprise, is workable only if there is an adequate funding authority balance available at the start of each year.

The fact of the matter is that, had Congress not had the foresight to enact the first-year appropriations from the general fund of the Treasury rather than from the special canal fund, the Commission would have been left without the financial resources from which to operate. That the Commission has been able to operate successfully under the special-fund concept is attributable to the availability of interest deposits and the remainder of the first-year appropriations as a beginning funding balance each year.

Reduced to its simplest terms, the Commission must ensure that it retains sufficient funding authority to allow it to operate effectively within the unique financial arrangements under which, by law, it must function. The balance now in the special fund will be used only for annual startup funding authority and, when the treaty terminates at the end of the century, it will become part of the general fund.

The interest deposited in the special fund, in combination with the $85 million from the original general fund appropriations, now provides sufficient working capital to allow the Commission to operate within the special-fund constraints until the canal is turned over to Panama in the year 2000. Therefore, it is unnecessary, from an operational viewpoint, to place additional interest in the special fund.

Mr. Chairman, we would like the committee to note that H.R. 664 differs from language in the 1986 budget, which provides that the interest collected first be deposited in the Panama Canal Commission fund, and then transferred to the Treasury via appropriations.

The administration prefers that a permanent indefinite appropriation be granted by the Congress rather than a provision for direct deposits as required by H.R. 664 because it provides that the interest be treated as any other expense of the Commission by including it in the obligations and outlays of the Commission fund. Both approaches meet the President's central objective to henceforth exclude interest collections from the funding balance otherwise available to the Commission for financing appropriations and to ensure that such collections are deposited in the general fund of the Treasury. Since H.R. 664 only relates to future collections of interest, the Commission supports the bill.

Mr. Chairman, that concludes my testimony on H.R. 664. I recommend that Mr. McAuliffe present his statement, and we both will then be available for questions.

Chairman GOLDWATER. Thank you very much.

General McAuliffe, do you want to put your statement in the record?

You may proceed any way you want to.

STATEMENT OF DENNIS P. McAULIFFE, ADMINISTRATOR, PANAMA CANAL COMMISSION

Mr. MCAULIFFE. Thank you, Mr. Chairman.

I am Dennis Philip McAuliffe, Administrator of the Panama Canal Commission. I am pleased to appear before you today to provide testimony on H.R. 1784, the new authorization for the fiscal year 1986 budget program for the Panama Canal Commission, and H.R. 664, the interest bill.

I propose to summarize my statement and submit the full text for the record.

Chairman GOLDWATER. That will be done.

Mr. MCAULIFFE. From a financial standpoint, 1985 thus far has been a successful year for the Panama Canal Commission. The effect of the decline in ship traffic experienced in 1983 as a result of the worldwide recession continues to impact on the canal organization.

While the level of traffic has been on the uprise since the low point of 1983, the increase has been less than expected and a more moderate rate of growth is now projected for the future.

Despite the modest growth in canal business over the last few years, we have been able to keep expenses within revenue levels. In 1984, the Commission reported a $6.8 million net margin and expects an essentially break-even year for 1985.

Looking to 1986, total revenues are expected to be somewhat lower than shown in the budget authorization request. Despite the reduced revenues, we are confident that the Commission will be able to keep expenditures down to the level necessary to break even.

This will be accomplished without the need for a toll rate increase and without adversely impacting on the efficiency of canal service.

The proposed bill would authorize appropriations for the Commission of $436.8 million for operational and capital requirements in fiscal year 1986. All appropriations requested will be fully financed from canal revenues.

The appropriation needed for operating expenses in fiscal year 1986 is $410.3 million. The amount sought for operation represents an increase of approximately 2.5 percent over the level required in 1985.

This increase is almost wholly attributable to cost escalation. Appropriations scheduled for 1986 under the Commission's capital outlay program amount to $26.5 million. The program provides for a variety of projects of which the majority are devoted to the transit and related activities.

Mr. Gianelli has already addressed several of the other provisions of the bill. I would like also to comment briefly on the provision covering the use of appropriations for health care and educational services.

This provision simply authorizes the Commission to use lower cost, but good quality private educational and medical facilities in Panama and permit its employees to be reimbursed for private schooling in Panama. These items are not part of the Commission's equity package at all and are essentially cost saving measures.

Now, turning to H.R. 664, that bill would provide that all future collections of interest by the canal be deposited into the general fund of the Treasury as miscellaneous receipts rather than to the Panama Canal Commission fund as the law presently requires.

As you probably know, the question of whether interest should be deposited into the general fund rather than the Panama Canal Commission fund has been a controversial issue for a number of years. It is hoped that with the enactment of H.R. 664, that issue can finally be laid to rest.

The deposit of interest into the general fund of the Treasury rather than the special fund will have a pronounced impact on the finances of the Commission.

First, the change will thereafter exclude interest collections from the funding authority available to cover appropriations to the Commission.

Second, interest deposits will no longer serve to reduce the investment base upon which interest is calculated.

Finally, as a result of this latter factor, the amount of interest expense recoverable from canal users will increase.

With regard to the Commission, the bill through its prospective application allows us to retain sufficient funding authority to operate effectively within the unique financial arrangements under which, by law, we must function.

As indicated by Mr. Gianelli, since the changes contained in the proposed legislation will relate to future collections of interest only, we support its enactment as being an equitable solution to the interest problem.

Mr. Chairman, that concludes my statement. I will be pleased to join with Mr. Gianelli in responding to any questions you or the committee may have.

[The prepared statements of Mr. McAuliffe follow:]

Prepared Statement of Dennis P. McAuliffe, Administrator, Panama Canal Commission

INTRODUCTION

Mr. Chairman, members of the committee, I am Dennis P. McAuliffe, Administrator of the Panama Canal Commission. I am pleased to appear before you today to request authorization for the fiscal year 1986 budget programs of the Panama Canal Commission, the agency responsible for the operation of the Panama Canal. I join Mr. Gianelli in extending the Commission's appreciation to this committee for scheduling this hearing on this very important legislation.

FINANCIAL OVERVIEW

From a financial standpoint, 1985 thus far has been a successful year for the Panama Canal Commission. The effects of the decline in ship traffic experienced in 1983 as a result of the worldwide recession continues to impact on the canal organization. While the level of traffic has been on the uprise since the low point of 1983, the increase has been less than expected and a more moderate rate of growth is now projected for the future. Despite the modest growth in canal business over the last few years, we have been able to keep expenses within revenue levels.

Fortunately, the Commission has been in a posture to continue with austerity programs already in effect to counter the severe dropoff in traffic that took place in 1983, as well as to proceed with other efficiencies. We are pleased to report that the outcome was successful. In 1984, the Commission recorded a $6.8 million net margin, and expects an essentially breakeven year for 1985.

OUTLOOK FOR 1986

Looking to 1986, we now foresee a more modest rate of traffic growth from the levels previously forecast. As a result, and as Mr. Gianelli indicated, total revenues for 1986 are expected to be somewhat lower than shown in the budget authorization request. Despite the reduced revenues, we are confident that the Commission will be able to keep expenditures down to the level necessary to break even. This will be accomplished without the need for a toll rate increase and without adversely impacting on the efficiency of canal service.

TRAINING

Our training programs continue to be extensive in keeping with the treaty objective of increased Panamanian participation. During fiscal year 1985, the training needs of the Commission expanded beyond the craft and technical areas to the administrative area. Our commitment to ongoing industrial training programs has not diminished as they continue to meet our immediate and long-term needs. Over 90 percent of this training is directed towards Panamanian employees. In addition to craft training and the new pilot understudy program, we have recently established a career intern program which is designed to bring young Panamanian college graduates into the organization at entry levels and to develop them to full performance levels in administrative and professional fields.

In our ongoing commitment to the safety of our employees and the users of the canal, we have identified various safety training needs and are carrying out a vigorous safety training program in accordance with our commitment to the safety of our employees and canal users.

TREATY-RELATED MATTERS

The transfer of 680 excess housing units in 1984 to the Republic of Panama, which was brought to the attention of the Congress last year, was accomplished successfully. Of these, nearly half were leased back by Panama to the U.S. military forces for their use. Appropriate notification was given to Congress and the transfer of another 500 housing units to the Government of Panama occurred this past June. A review currently is underway to ascertain the feasibility of transferring approximately 300 additional housing units by the end of the calendar year. Housing units which are excess to the Commission's need have resulted principally from the fact that, in accordance with the treaty, the Commission is no longer authorized to provide housing for educational and medical personnel of the Department of Defense agencies of the canal area, as had been permitted during the first five years of the treaty. The release of excess housing units enables the Commission to best meet the

housing needs for remaining eligible employees and their families in the most cost effective manner.

AUTHORIZATION PROVISIONS

The proposed bill would authorize appropriations for the Commission of $436.8 million for operational and capital requirements in fiscal year 1986. The amount authorized for the capital program is to remain available until expended. All appropriations requested will be fully financed from canal revenues.

OPERATING EXPENSES

The appropriation needed for operating expenses in fiscal year 1986 is $410.3 million. The major cost components include $184.8 million for personnel compensation, $64 million for supplies and materials, and $76.2 million for treaty payments to Panama.

The amount sought for operation represents an increase of approximately 2.5% over the level required in 1985. This increase is almost wholly attributable to cost escalation.

CAPITAL PROGRAM

Appropriations scheduled for 1986 under the Commission's capital outlay program amount to $26.5 million. Significant projects funded in the 1986 capital program include replacement of a tugboat ($3.5 million); procurement of two towing locomotives ($2.9 million); installation of a special fire protection system at the locks ($1.4 million) and replacement of electrical transformers containing the chemical PCB at lock facilities ($700,000). In addition, the program provides for a variety of recurring projects of which the majority are devoted to the transit and related activities. These projcts will contribute to the overall safety and efficiency of operations.

AUTHORIZATION PROVISIONS

Mr. Gianelli has already addressed several of the other provisions of the bill. I would like also to comment briefly on the provision covering the use of appropriation for health care and educational services. This provision would authorize the Commission to defray the cost of health care services provided at non-Government facilities "to elderly or disabled persons" who were eligible for such services prior to the entry into force of the treaty. In addition, it would authorize payment for educational services for dependents of U.S. citizen employees of the Commission in non-Government schools. The Commission is currently authorized to defray the cost of such services provided in Department of Defense school facilities. This simply authorizes the Commission to use lower cost, but good quality, private educational and medical facilities in Panama, and permit its employees to be reimbursed for private schooling in Panama. These items are not a part of the Commission's equity package at all, and are essentially cost-saving measures, because of the availability of lower-cost services in non-Government facilities in Panama.

SUMMARY OF OPERATING OBJECTIVES

In the seventy-first year of operation of the canal and the sixth year since implementation of the Panama Canal Treaty, we are confident that the canal organization will keep pace with the changing needs of world shipping. Our priority objective is to provide reliable, efficient and safe service at a cost that is more than competitive with other transportation alternatives. Of major importance to this goal is the need to train and increase the participation of Panamanian employees at all levels of the organization.

The operating and capital programs for 1986 as presented will permit us to pursue these objectives successfully.

CONCLUSION

Mr. Chairman and members, this concludes my statement. I would be pleased at this time to join with Mr. Gianelli to answer any questions you might have.

PREPARED STATEMENT OF DENNIS P. MCAULIFFE, ADMINISTRATOR, PANAMA CANAL COMMISSION, ON H.R. 664

Mr. Chairman, members of the committee, I am Dennis P. McAuliffe, Administrator of the Panama Canal Commission. I am pleased to appear before you today to comment on H.R. 664, a bill to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States in the Panama Canal. Specifically, H.R. 664 would provide that all future collections of interest by the canal be deposited into the general fund of the Treasury as miscellaneous receipts rather than to the Panama Canal Commission fund as the law presently requires.

As you probably know, the question of whether interest should be deposited into the general fund, rather than the Panama Canal Commission fund, has been a controversial issue for a number of years. It is hoped that with the enactment of H.R. 664, that issue can finally be laid to rest.

The deposit of interest into the general fund of the Treasury, rather than the special fund, will have a pronounced impact on the finances of the Commission. First, the change will thereafter exclude interest collections from the funding authority available to cover appropriations to the Commission. Second, interest deposits will no longer serve to reduce the investment base upon which interest is calculated. Finally, as a result of this latter factor, the amount of interest expense recoverable from canal users will increase.

As indicated by Mr. Gianelli, since the changes contained in the proposed legislation would relate to future collections of interest only, we support its enactment as being an equitable solution to the interest problem.

As indicated by the Chairman, the administration prefers that a permanent indefinite appropriation be granted by the Congress rather than a provision for direct deposits as requested by H.R. 664.

With regard to the Commission, the bill (through its prospective application) allows us to retain sufficient funding authority to operate effectively within the unique financial arrangements under which, by law, it must function. With regard to the U.S. Treasury, it will benefit through the accrual of a higher level of receipts due to the elimination of any further erosion in the investment base. As to canal users, the bill would not impose any unexpected and retroactive cost burden upon them.

Mr. Chairman, that concludes my testimony, and I would be pleased to join with Mr. Gianelli in responding to any questions you or other members of the committee may have.

Chairman GOLDWATER. Mr. Rhode, do you have anything to say?

Mr. RHODE. No, thank you, Mr. Chairman. I am here to lend moral support.

Chairman GOLDWATER. Thank you.

Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chairman.

General, are you down at the Panama Canal now?

Mr. MCAULIFFE.That is correct.

Senator THURMOND. Would you just state in simple words why this bill was introduced and very simply what you want to accomplish?

Mr. MCAULIFFE. Senator, do you refer to the authorization bill or the interest bill?

Senator THURMOND. This is the interest bill.

What do you want to accomplish by this bill?

Mr. MCAULIFFE. In effect, Senator, we are supporting that bill as being an equitable solution to the interest problem.

Mr. GIANELLI. Let me add that I think the primary purpose is to allow the interest that accrues hereafter to be deposited in the general fund.

Senator THURMOND. The Panama Canal Commission?

Mr. GIANELLI. That is right, to continue the operation for the first 2 months.

Senator THURMOND. The reason for that is?

Mr. GIANELLI. The reason for that is we don't believe we need subsequent interest collections for financing the operation of the canal after fiscal year 1985. It can therefore be deposited in the general fund.

Senator THURMOND. That is fine.

What about the bill?

Mr. GIANELLI. The other bill is the authorization bill, Mr. Chairman, and the Commission has asked for a bill to allow the Commission to proceed with the appropriation process.

Senator THURMOND. That is a regular authorization bill?

Mr. GIANELLI. It is a regular authorization bill. It has to do with the expenditures that carry on the operation of the Commission.

Senator THURMOND. That is the reason for your appearance today, those two things?

Mr. GIANELLI. Yes, sir.

Senator THURMOND. Thank you very much.

Chairman GOLDWATER. Senator Denton?

Senator DENTON. Thank you, Mr. Chairman.

I am pleased the committee is having this hearing.

The security of the Canal is now of great importance to our trade, to our national security, and to members of the committee.

I particularly want to welcome Mr. McAuliffe, the Administrator of the Panama Canal Commission, whose friendship I and my wife have been privileged to share over some years, and I welcome Mr. Gianelli whose accomplishments are well known. Both jobs are important. They have been well done.

I am sure that we all recognize the Commission has done a good job in carrying out its mandate under the treaty. The treaty may have been controversial, but on the whole I think it has seemed to work to the advantage of the American people, and a lot of that is due to the excellent work done by the Commission, the Administrator, and the employees.

I want to note in passing that we have had a lot of foresighted complaints by the employees of the Commission about the forthcoming pending change, namely losing the military exchange and postal privileges.

I am pleased to see that you have shared this concern and have found a way to deal effectively with that problem.

Mr. GIANELLI. It has been a very sticky one, Senator. We have tried very hard.

Senator DENTON. It seems to have satisfied almost everyone. I commend you for the way you have handled it.

I have just two brief questions, Mr. Chairman.

You have top responsibility for operating the canal. I should like to have an update, briefly, on how the process of turning more responsibility over to the Panamanians is proceeding, in your view.

Mr. MCAULIFFE. The process is proceeding well. We have not established any goals specifically or specific margins to meet, but we have invested heavily in training programs, industrial training as well as general training, mostly directed as Panamanian employees and that has proven the basis not only for a more efficient operation by our employees day to day in Panama, but also to help move Panamanians up in our structure.

Our organization now is very close to 80-percent strong in Panamanians. They are in all of the skill ranges and they are slowly but surely moving into the top management ranks of the Commission.

So, I would say that is proceeding well. We have an excellent quality of young Panamanians available to us and we are making good use of that talent.

Senator DENTON. So, operationally it is going along fine?

Mr. MCAULIFFE. Yes.

Senator DENTON. Politically, in terms of that having been an issue, it must be coming off well. Is that true?

Mr. GIANELLI. Let me suggest, Senator, that the Panamanians, with all due respect, would like us to proceed much faster than we are in terms of documenting and equipping the Commission staff with Panamanians.

We think we are moving at quite a rapid pace. We reduced the number of U.S. citizens employed there from slightly over 2,000 at the beginning of the treaty to somewhere around 1,400. We are moving in the direction of reducing U.S. employees by hiring Panamanian employees.

We think we are proceeding in accord with what was intended and by the year 2000 we will be pretty far down the line.

Senator DENTON. The political issue is not a serious one?

Mr. GIANELLI. It is not a political issue with any of us except the Panamanians continue to agitate for moving faster than we are.

We do have a good training program as Mr. McAuliffe has indicated. We are working hard to train these people to assume important jobs, but it takes just so long to do that. We will probably need the entire transition period for that purpose.

Senator DENTON. Finally, then, Mr. Chairman, I would ask, knowing that these gentlemen are responsible for operations, but not necessarily security, which is the principal concern of this committee, I would welcome any comment that either of you might have as to the estimate of the situation regarding security, not just with respect to within Panama, but because of the political changes, the security developments in areas around Panama which have had an impact on Panama.

Would it be all right, Mr. Chairman, if he said something in open session in general on that subject?

Mr. GIANELLI. If I can respond in general and I am sure Mr. McAuliffe can expand more on it, I think there has been quite an increase in the number of Panamanian security forces aimed at assuming responsibility in the year 2000.

We have a brigade there responsible for the safety and security of the canal at the present time. My understanding is that the Panamanian defense forces moved somewhat aggressively in terms of augmenting their own forces in anticipation of the time when they will have to assume that responsibility.

Mr. MCAULIFFE. The problems of Central America are certainly evident in Panama, but they seem not to cause any particular problems, certainly not any security problems, from day to day.

The more pressing problems in Panama are economic and political.

With respect to the canal, we have very little internal capability to protect ourselves. We do maintain a canal protection force. It is fairly modest and it simply provides the watchman type of force.

We, of course, have excellent cooperation with the commander-in-chief of the Southern Command and all of the U.S. forces in Panama. These forces exercise with some of our own organization in and around the canal from time to time to demonstrate the capability to provide protection.

I should say also that we also maintain a good relationship with the defense forces of Panama. Here again, those forces would be brought into play should there be any increase in the security threat to the canal.

Senator DENTON. Thank you very much.

Chairman GOLDWATER. Thank you.

Senator Levin?

Senator LEVIN. Mr. Chairman, thank you very much.

Welcome to all of you.

Our witnesses will no doubt remember, I know the Chair remembers, when I first got to the Senate I was asked by Chairman Stennis at that time to take on the floor management of the Panama Canal implementation legislation. I was an innocent baby then and accepted. I have kind of an ongoing paternal interest, I guess, in this legislation.

From everything I can learn, I want to commend the gentlemen for their tremendous administrative work in making this transition a very smooth one and a very desirable one in terms of American security.

We have two bills in front of us. One is the interest bill which sounds technical and perhaps is relative to future interest. I understand, though, that there is an issue relative to accrued interest. I would like to spend 1 minute on that.

GAO has apparently said they could transfer accrued interest into the Treasury without any difficulty and I gather the Commission and General McAuliffe are not particularly pleased with that prospect.

I do think it is important that we have a record here in this committee on that issue because there apparently could be an effort made on the floor to transfer that money and we ought to know what the issues are so that we can respond appropriately, whatever that response might be.

I am wondering if we could get a statement for the record, if we don't already have one, on that issue. Perhaps I missed it, it may have been part of the testimony. If it is part of their testimony, fine. If not, perhaps we can solicit a comment on the question of the GAO suggestion that accrued interest also be transferred to the Treasury, not just future interest.

Mr. GIANELLI. Yes, Senator, let me comment and perhaps others can add to it. There has been communication between Senator Chiles and GAO with respect to the interest that has accrued the last 5 years. It amounts to some $56 million.

GAO has contended that amount could be transferred to the general fund right now.

The Commission contends it would make a big operational problem for the Commission if it did so.

Our primary reason for this is that the Commission, as we indicated and referred to in our statement, requires money on hand before it can expend funds for the operation of the canal.

That means particularly during the first few months of the fiscal year we have a problem unless we have some funds available, by virtue of our being a special fund, to meet the obligations of the canal during those first months.

It is our estimate that we should have the past accrued interest available for meeting those requirements, particularly looking ahead when there is inflation and when there will be perhaps additional cost during those first months as a result of hopefully increased traffic in the canal.

That really is the issue, Senator. This bill—we are talking about the interest bill before you—transfers all of the interest receipts henceforth to the general fund. We agree to that. We think we have enough now with the past accrued interest along with other funds that are available in our account balance to take care of the first months of operation.

So, that is the issue.

Senator LEVIN. Have you met with the GAO on this?

Mr. GIANELLI. Yes, we met with them several times and corresponded with them. As a matter of fact, we met with Senator Chiles this morning and GAO on this very issue.

It is our position that they really don't quite understand our problem. That is why I personally wanted to meet with Senator Chiles to fully explain it to him because it is an operational problem.

Ultimately all the money will return to the general fund, there is no doubt about that. It is an operational problem. That is why we feel that the position we have taken is the correct one.

We shouldn't risk the operational problems for the canal by taking away the past interest which is essential to the operation of the canal. It ultimately will go into the general fund anyway at the close of the transition period.

That is the issue.

Senator LEVIN. Did you make any headway this morning?

Mr. GIANELLI. I think Senator Chiles understands a little bit more our position which we had not articulated to him on a personal basis before. We had some correspondence. I am hopeful that he sees the point we are trying to make.

Mr. MCAULIFFE. I should like to expand on a point or two. Certainly there is the operational need for that money, as Mr. Gianelli has pointed out. But there is another aspect and that is the impact the transfer of accrued interest from the special fund to the general fund will have on canal finances.

The result would be for the canal to recast its financial statements covering 6 years to reflect $20 million or more of added interest cost. That would in turn impose on canal users an additional annual cost amounting to $6 million starting in 1985.

We would, in effect, be adding to the toll charges which they already face at the canal. We feel this would be most untimely since we have been making an enormous effort over the last several years to restrain our costs so as to avoid any toll increases because of the dire straits of the maritime industry.

We feel that any additional cost of the canal would put their use of the canal in some jeopardy and possibly cause users to look for alternatives to the Panama Canal.

There is a final point that relates here and that is that there is a communication from the Congressional Budget Office to the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, a letter dated September 3, of this year. I would like to quote one sentence from that report. This is the Congressional Budget Office statement:

> The transfer of the $56 million to the general fund would have no net budgetary impact because that money has already been credited to the budget as offsetting receipts. The transfer would have no effect on total cash held by the United States Treasury.

Senator LEVIN. Mr. Chairman, if our staff could look into this and if there is an agreement on this issue, I am wondering if it might be appropriate to add some language in the committee report relative to this issue so that we can indicate that we have addressed it.

Their case sounds persuasive to me. If our staffs are in agreement on it, perhaps we can have some committee report language that goes to the floor with this bill if there is going to be a report.

Chairman GOLDWATER. I think that is a very wise suggestion. The staff will do that.

Senator LEVIN. I have one other area of questioning that I would like to move to on the other bill.

The second bill is H.R. 1784. As I understand, section 8 of that bill expresses the sense of the Congress that expenses should be frozen at last year's level and that the resulting savings should be deposited to the Treasury.

I understand the administration opposes this provision.

Is it in the bill? Is it still in the bill?

Now, the administration opposes it because, as I understand it, it could result, if Congress' intent were carried out, in a violation of the treaty which has to do with the disposition of profit to the canal up to $10 million annually, which the treaty, as I remember it, provides to be paid to Panama.

I may be oversimplifying this a bit. My memory may be a bit rusty.

My question is this: The administration opposes section 8. I gather that a sense-of-the Congress provision is not binding, but it does carry symbolic significance. If the Congress says that we want something to happen which violates the treaty, it creates a needless problem. It does not accomplish anything because it is not binding. All it does is make some enemies out of friends.

I can't remember the exact details of the treaty offhand so I can't really perhaps frame my question the way I would ordinarily like to do it.

My question, I guess, is this: Do you oppose section 8?

Does the administration oppose section 8? Are you speaking for the administration?

Mr. GIANELLI. Let me see if I can respond to the question and perhaps I can have some assistance here, if necessary.

The treaty provides, Senator, that any surplus revenue over and above the operation up to $10 million a year be paid to Panama.

So, I think our position is that if section 8 were to hold and to mean anything, then you would have to modify the treaty because it is very specific in what it says about the disposition of surplus revenues.

The other point I was trying to make was that we don't expect there to be any excess revenues this year because traffic is down. So, we are saying, in effect, the question might be moot.

I think the first point is correct, that you would have to change the treaty if you want to change where the surplus funds will be deposited.

Senator LEVIN. I think we want to protect that treaty. I think we ought to stick by our treaty, however we interpret it.

I don't think we ought to be interpreting treaties up here, but we should make a statement we want the receipts to be disposed of in accordance with the treaty.

Mr. GIANELLI. We think section 8 would be in violation of the provisions of the treaty.

Senator LEVIN. I would suggest we substitute the words "dispose of in accordance with the treaty" without saying what that means.

Then we will let the administration interpret what that means. I don't want to be the interpreter here, but I do want to protect that treaty.

If there is a treaty violation, even though it is symbolic and not binding, I don't know why in the name of Heaven we would want a symbolic violation of a treaty which most people seem to think has stood us in pretty good stead for American security.

For what? It does not put any money in the Treasury. That would be the only reason to do it. Not a good reason, by the way. I would not violate the treaty to add $10 million to the Treasury.

The only reason to do it would be to put money in our pocket. This does not put money in our pocket. So, we create a nasty symbol for nothing.

My time is up.

Chairman GOLDWATER. Let me ask a question.

Would you suggest that we eliminate section 8?

Mr. GIANELLI. It would be fine with me or if there is some feeling on the subject that we ought to do something in this area, if possible, that we say it is the sense of the Congress that the Commission, if possible, freeze their expenditures and that any savings resulting from this action be disposed of, or a nicer word than that, in accordance with the treaty.

Chairman GOLDWATER. We don't intend to mark these bills up today. There is no big rush. So, at our markup period we can discuss it.

I think you are right. I think the staff is in agreement with that, too.

Senator LEVIN. Are they urging us to do that on the record? Maybe we have already heard from them.

Would you urge us to eliminate section 8 or modify it so that we spend any savings accrued to them in accordance with the treaty?

Mr. RHODE. Senator Levin, it is good to see you, sir. I remember your trip to Panama.

I have been working with the members of the Office of Management and Budget. We have spent a great deal of time on this one

section. The administration opposes section 8 as a matter of principle for the reason you have said.

However, even though it is the sense-of-the Congress resolution, because of our reassessment of the amount of revenue for fiscal year 1986, section 8 thus becomes a nullity because in our overall revenue picture we will not take in more revenue in 1986 than we did in 1985.

Therefore, we are imposing on ourselves a freeze and no revenue profit is anticipated. So, it really is sir, a nullity and has no impact on us.

Senator LEVIN. It has no practical effect?

Mr. RHODE. Correct.

Senator LEVIN. It does have symbolic effect and I think it is a mistake for the Congress to say that we intend to violate a treaty that we have ratified.

Now, that is a matter of principle. I think it is a terrible thing to do for us to ever say that we intend to violate a treaty that we ratified. We may not all have liked that treaty.

By the way, I would have voted to ratify that treaty if I had been here. I don't know how Senator Goldwater voted and Senator Gramm was not here, so I don't know how he would have voted. That is not the point. Whether we like the treaty or not, it is a treaty of the United States. We ought to be good to our word.

I doubt that we should violate the treaty even though it has no practical effect. I think we should modify or strike it.

Could I make one request of the Chair?

Mr. Chairman, I was not here last week when we had a hearing relative to Mr. Dawson. I am wondering if I might submit some questions for the record for him. I understand that there are questions by Senator Chafee and one other Senator, so that the matter would be held up anyway.

So, the question I would like to submit would not hold this matter up. I could not make the hearing and I would like to ask the questions for the record.

Chairman GOLDWATER. We had hoped to be able to act on his nomination today.

Would you want that held up?

Senator LEVIN. If you are acting on it today, no. I would like to have my questions answered, yes. I think if you held it up a couple days, I would appreciate it.

Chairman GOLDWATER. It has been held up a long time now.

Senator GRAMM. Mr. Chairman, they can be answered before they go to the floor. We are just talking about the committee today.

Senator LEVIN. If we have made a commitment to proceed, I would not want you to violate it.

Chairman GOLDWATER. It is not a commitment. The Chair would like to see it done.

Submit the questions for the record.

Senator LEVIN. Before the vote on the floor?

Chairman GOLDWATER. Yes. That would be plenty of time.

Senator GRAMM. Mr. Chairman, I want to go back to the $56 million.

As I understood you, this bill would take $53 million and transfer it into the general account and your argument is the $53 million is already counted in the budget.

Could you go over that one more time?

Mr. GIANELLI. Let me try, Senator. It is somewhere between $53 and $56 million. I have seen both figures used.

If this bill goes through, that amount of money which has been collected over the last 5 years will stay in the Panama Canal Commission fund to help us in the 2 months beginning operation of each fiscal year as a special fund. This bill, H.R. 664, would take subsequent interest receipts, revenues which are collected, and deposit them in the general fund.

We have had considerable dialog with Mr. Levin on that before you came in. The purpose of his bill would be to take future interest revenues and put them in the general fund.

Senator GRAMM. This bill is H.R. 664?

Mr. GIANELLI. Yes, sir.

Senator GRAMM. Now, the $53 million, as I heard it, putting them into the general fund rather than leaving them where they are would not affect the budget because it has already been counted in the budget.

Are you saying it is counted in the budget because it is in this trust fund?

Mr. GIANELLI. Let me back up. The $56 million refers to the 5 years' interest which has accrued since the creation of the Commission. It is the interest accrued over that period.

We are saying that that is needed for the first 2 months of operation plus the fact there is a letter that I think Mr. McAuliffe referred to in response to a comment from Senator Levin to the effect that the Congressional Budget Office says that this money has already been credited to the budget as offsetting receipts.

So, it does not, in effect, make any new cash available, as we understand it.

Senator GRAMM. I would say it does in the sense if you have the money in the general account, that would mean you cannot spend it, whereas if it is not brought in the general account, you can.

Mr. GIANELLI. That is correct. Because it is out of our balance, we would not be able to use it. We don't expect to ever use it, but by transferring it to the general fund it takes away an essential financial component of the Canal operation.

Senator GRAMM. So, whether it affects the budget or not depends on what you do with it relative to your absence of ability to do anything with it, if it were brought into the general account.

Mr. RHODE. Senator, the Chairman has asked me to respond to it.

The $53 to $56 million, I think it is $56.3 million, is treated simplistically like a checking account for us, if you will. As you utilize your personal checking account, if you deposit an out-of-State check, the bank holds it for a certain time before you can utilize those funds.

The Panama Canal Commission needs money to operate over the first weeks of the fiscal year and we deposit money in our special fund, but because of the problems in the Treasury where they audit on a monthly basis and then will warrant those funds back to

us, there is generally a 6- to 8-week lag before we are able to utilize any money that we deposit.

So, the moneys that have been deposited in our account balance, there really is no money there, if you will, the Treasury utilizes that cash the day we put it into the account. They can utilize it for anything they want, but they do give us credit in our account so that we can draw on that because the money really rotates around that account as we deposit on a daily basis.

It really allows the Panama Canal Commission to have working capital during the first 6 to 7 weeks in any fiscal year and after that period elapses, then we are able to draw on the money that we have deposited in the account that fiscal year.

But for those individuals to talk about transferring money from the special fund to the general fund, there is no money to transfer because the Treasury is already utilizing that cash we have put in there.

It is simply an accounting procedure which does allow us to utilize on our own money we have already deposited in that fiscal year.

Senator GRAMM. Thank you, Mr. Chairman.

Chairman GOLDWATER. I want to commend you gentlemen for the operation of your task down there. I was not one that voted for this transfer. I think it is working out all right.

How is the new President doing?

Mr. GIANELLI. I think he is having his difficulties, Senator. He has been in office now about a year. Certainly from reports in the press, he has had his problems. He is a person we can work with and have been working with and we are hopeful that he will continue to do well.

Chairman GOLDWATER. I have an interest because he attended the University of Arizona.

Section 5 of H.R. 1784 provides certain transportation benefits to employees.

What is the additional cost associated with those benefits?

Mr. GIANELLI. Senator, the estimates for fiscal year 1985 and 1986 each provide $800,000 for additional home leave and educational travel benefits. I think that is the item you are referring to.

Chairman GOLDWATER. I did not get that.

Mr. GIANELLI. The fiscal year estimates for 1985 and 1986 each provide $800,000 for additional home leave and educational travel benefits. I think that is the figure you were inquiring about.

Chairman GOLDWATER. Thank you.

Please explain how the investment base erosion will stop with enactment of H.R. 664 and how this results in a higher level of receipts for the U.S. Treasury.

Mr. MCAULIFFE. Mr. Chairman, if H.R. 664 were enacted, the interest would be deposited directly into the miscellaneous receipts of the Treasury. Because the investment base under the present structure is increased by the amount of expenditures and decreased by the amount of receipts deposited in the special fund, the change will serve to reduce the amount of receipts deposited in the fund which has heretofore resulted in the erosion of the investment base.

As a result of the investment base being greater, interest payments under H.R. 664 will be higher than under current law.

Chairman GOLDWATER. Thank you.

On page 3 you refer to the Commission's use of capital advance and identify in 1986 the amount of $3.1 million.

How is this amount arrived at and how does the capital advance work?

Mr. MCAULIFFE. The amount of the capital advance is determined each year by calculating the amount of depreciation included in expenses and covered by revenues, the booking fees estimated to be collected and any excess capital financing for the previous year.

The sum of these amounts is compared to the capital program and any shortfall is made up with a capital advance. Capital advance funds are collected and reserved from tolls that are earmarked exclusively for capital programs.

Chairman GOLDWATER. One other question relative to operation and I am going to submit my general questions to you for your further answers.

Why is there an increase in the housing program expenses and operation line items, yet at the same time there is a decrease in housing revenues.

Mr. MCAULIFFE. There are several reasons for housing operation and maintenance costs increasing in 1985 and 1986.

First, because of the austerity programs implemented over the last few years as a result of the downfall in canal traffic, considerable housing maintenance had been deferred. The Commission is attempting to return to an acceptable level of maintenance for houses remaining with the Commission.

Second, because of the recent moves of educational and medical personnel, who are no longer eligible for Commission quarters, there has been an unusually large number of vacated quarters which require cleaning, painting, and preparation for subsequent renters.

Finally, efforts to accelerate housing turnover to Panama have resulted in increased maintenance requirements there in preparing to move Commission personnel residing in the transferred areas to Commission housing.

The decrease in the housing revenues in 1985 and 1986 is related to the fact that education and medical personnel of the Department of Defense are no longer eligible to reside in Commission housing units and application of the equity adjustments package which provide free rent to certain U.S. citizen Commission employees who lost access to the military commissary exchange and postal facilities in October 1984.

Chairman GOLDWATER. Thank you very much.

Senator Bingaman?

Senator BINGAMAN. I have no questions, Mr. Chairman. Thank you.

Chairman GOLDWATER. Gentlemen, I want to thank you for coming up. I want to thank you for the good job you are doing down there.

One of these days I will drop in on you again. It has been some time since I was there. From everything I hear, the people are happy and the canal is operating well and that is your purpose.

So, we will adjourn this meeting.

[Questions submitted by the Senators of the Armed Services Committee to be answered for the record follow:]

QUESTIONS SUBMITTED BY SENATOR BARRY GOLDWATER

Senator Goldwater. How much investment of capital do you believe is required in the canal between now and the year 2000?

Answer. In the six fiscal years (fiscal year 1980–85) since implementation of the Panama Canal Treaties, the capital program of the Panama Canal Commission has averaged approximately $27 million annually. Approximately 70% of the program in each of these years has been directed toward the transit-related functions of the Commission with the remaining funds being utilized for utilities and general support operations.

The forecasted increase in the transit of large beam vessels when coupled with the aging plant and equipment will necessitate approximately a 10% to 15% increase in the capital investment of the Commission over the next fifteen years to make the required improvements and replacement to maintain safe and efficient canal operations. Therefore, in terms of 1985 dollars, it is anticipated that the capital investment program of the Commission will average approximately $30 million annually, or approximately $450 million over the next fifteen years.

If the current study considering widening the canal concludes that the project is necessary and feasible, and if the project is ultimately approved by all parties concerned, the capital investment requirements for the canal could increase significantly over the period in which the project is accomplished.

Senator Goldwater. I understand the Commission has been studying the possible widening of the canal. What specifically are you looking at and what do you hope to receive at the completion of the study?

Answer. The narrowest section of the Panama Canal is an 8-mile stretch called Gaillard Cut. Its 500-foot wide channel restricts wide-beam vessels to one-way passage, limiting the canal's capacity to transit increasing numbers of large vessels. With the continuing trend toward more large vessel transits, the limitations posed by the Gaillard Cut restrictions could result in future diminution of the quality of transit service.

A multifaceted study is now underway to determine the overall feasibility of widening Gaillard Cut to permit uninterrupted two-way traffic of large vessels. This study involves technical, operational, environmental, economic and financial analyses. Outside sources are being used to assist Commission staff in the evalutions. The Maritime Administration's Computer Aided Operations Research Facility (CAORF) at Kings Point, New York, is working on an optimum channel design. The U.S. Army Corps of Engineers is developing preliminary estimates of excavation methodologies and costs and is assisting in the preparation of an environmental report. Consultant studies have been contracted to forecast future traffic up to the year 2010 and to analyze the sensitivity of traffic to increases in transit costs, which include tolls as well as the costs of transit delays. The Inter-American Development Bank (IADB) has provided terms of reference to be used in contracting a financial consultant to determine and evaluate various alternatives for the financing of the project should it be required. Utilizing the results of these studies, Commission staff will conduct an operational analysis and an economic feasibility evaluation.

These studies should enable the determination of an optimum channel configuration, the construction cost, the eonomic and financial feasibility of the project and the potential need for the widening of Gaillard Cut to meet future traffic demand. The various studies are expected to be completed during the first half of fiscal year 1986. The overall cut widening feasibility study then will be presented to the Board of Directors for their review and deliberation. There are, however, no current investment implications since the Commission is simply an overall evaluation of the possible feasibility of the project to the Gaillard Cut.

Senator GOLDWATER. What will happen between now and the year 2000 in terms of treaty milestones?

Answer. (1) Citizenship of Administrator and Deputy Administrator. The treaty specifies that, through December 31, 1989, the position of Administrator of the Panama Canal Commission shall be filed by a U.S. citizen and that of the Deputy Administator by a Panamanian national. Begining January 1, 1990, a Panamanian

national shall occupy the position of Administrator and a U.S. citizen that of the Deputy Administrator.

(2) Schedule for the Transfer of Housing. The treaty specifies certain benchmarks for the transfer of housing units to the Republic of Panama. In that regard, the final benchmark calls for the transfer of at least 60% of the Commission's pretreaty housing units within twenty years from entry into force of the treaty. To date, 2,432 units or nearly 60% of the pretreaty housing inventory of the Panama Canal organization have already been transferred to the Republic of Panama. With the completion of the phase III housing transfer, which commences on October 2, 1985 and includes 274 units, the Commission will have met and surpassed the housing transfer goal some 14 years ahead of the treaty mandated schedule.

Senator GOLDWATER. You have stated that a reassessment of the traffic outlook for 1986 reflects a lower level of growth than previously anticipated. What are the major reasons for the falloff? Are there any specific trades or commodities that are affecting your revised traffic levels in 1986?

Answer. Although traffic levels during fiscal year 1986 are expected to show gains relative to the current year, the outlook is for lower growth than previously anticipated. This falloff reflects continuation of a slowdown in canal traffic growth rates evident during the last three quarters of fiscal year 1985, particularly in cargo tonnage. Total cargo during the year is running below the levels reached the prior year, mainly as a result of depresed tonnage levels in two major trades—petroleum and petroleum products and grains. Current patterns indicate it is unlikely these trades will show any significant improvement during the next fiscal year. The petroleum and products commodity group is being affected by sluggish conditions in canal traffic-related markets and the grain trade is reflecting, among other factors, the depressed levels on U.S. grain exports to the Far East.

Senator GOLDWATER. Also, what is the general prognosis for traffic in the future?

Answer. In general, canal traffic is expected to show growth in the future but at very modest rates. These increases should be generated by moderate gains in most Canal commodities and continued growth in the number of PANAMAX vessels using the waterway.

[Whereupon, at 2:53 p.m., the committee proceeded to other business.]

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